

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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TRACY WEBB,

**Plaintiff,**

ST. MARY'S NURSES & DOCTORS, *et al.*

Case No. 3:17-cv-00286-MMD-VPC

ORDER ACCEPTING AND ADOPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
VALERIE P. COOKE

## Defendants.

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (ECF No. 5) ("R&R") relating to Plaintiff's Application to Proceed *In Forma Pauperis* (ECF No. 1) and *pro se* complaint (ECF No. 1-1) Plaintiff had until September 11, 2017, to file an objection. (ECF No. 5) To date, no objection has been filed.<sup>1</sup>

This Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge’s report and recommendation, then the court is required to “make a *de novo* determination of those portions of the [report and recommendation] to which objection is made.” 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

<sup>1</sup>The R&R (ECF No. 5) and the last order entered by the Court (ECF No. 3) that were mailed to Plaintiff were returned as undeliverable. (ECF Nos. 4, 6.)

1   Indeed, the Ninth Circuit has recognized that a district court is not required to review a  
2   magistrate judge's report and recommendation where no objections have been filed. See  
3   *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard  
4   of review employed by the district court when reviewing a report and recommendation to  
5   which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
6   1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
7   view that district courts are not required to review "any issue that is not the subject of an  
8   objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
9   the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
10   Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
11   which no objection was filed).

12        Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
13 determine whether to adopt Magistrate Judge Cooke's R&R. The R&R recommends that  
14 this action be dismissed without prejudice. The Court agrees with the Magistrate Judge's  
15 recommendation.

16 It is therefore ordered, adjudged and decreed that the Report and  
17 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No. 5) is accepted and  
18 adopted in its entirety.

19 It is further ordered that Plaintiff's Application to Proceed in District Court Without  
20 Prepaying Fees or Costs (ECF No. 1) is denied for the reasons outlined in the R&R  
21 (ECF No. 5).

22 It is further ordered that this action is dismissed without prejudice.

23 It is further ordered that the Clerk enter judgment and close this case.

24 DATED THIS 10<sup>th</sup> day of October 2017.

  
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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE